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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

No. 736

EVANSTON-NORTH SHORE BOARD OF REALTORS,
an Illinois not-for-profit corporation,
Petitioner,

vs.

THE UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

THEODORE A. GROENKE
FRANK M. COVEY, JR.
111 West Monroe Street
Chicago 3, Illinois
Attorneys for Petitioner

Of Counsel:
McDERMOTT, WILL & EMERY
111 West Monroe Street
Chicago 3, Illinois

La Salle Street Press—Chicago 10

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This reply is filed to call the Court's attention to the misrepresentation involved in respondent's contentions that the Court of Claims found that petitioner's over-all purpose was "to give service to its members" and that "the main purpose of the organization was non-exempt." (Resp. Br. 8, 9 and 10).

The Court of Claims made no such findings. In fact, the Court of Claims failed to make *any* findings on the subject of petitioner's over-all purpose or its purpose in undertaking the so-called multiple listing service, even though

these issues were the subject of extensive, uncontroverted evidence and crucial to a determination of petitioner's claim of exemption.

The Court of Claims failed to make such findings as a natural consequence of the erroneous legal test of exemption urged by respondent, adopted by the Court of Claims and now repeated in the brief in opposition to the petition for certiorari. Under this test of exemption, if an otherwise exempt organization undertakes an activity which is not in itself exempt and which produces a substantial cash flow on the organization's books and accounts for a substantial portion of the organization's clerical employees' time, the organization loses its exempt status even though it may exist for an exempt purpose and carry on the non-exempt activity to achieve this end.

Applying this erroneous legal standard, the Court of Claims did not find that petitioner had abandoned its exempt purpose, but rather that because one of its substantial activities (in these accounting terms) was not exempt, the over-all purpose for which plaintiff existed and carried on this and its other activities was immaterial.

Respectfully submitted,

THEODORE A. GROENKE
FRANK M. COVEY, JR.
111 West Monroe Street
Chicago 3, Illinois

Attorneys for Petitioner

Of Counsel:

McDERMOTT, WILL & EMERY
111 West Monroe Street
Chicago 3, Illinois